S.B. CIVIL WRIT PETITION NO.4186/2007

District Cricket Association and another.
vs.
Civil Judge (JD), Raisinghnagar & others.

Date : 23.11.2007

HON'BLE MR. PRAKASH TATIA, J.

Mr.M Trivedi, for the petitioners.

Mr.A Dave) for the respondents.
Mr.T Joshi)

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Heard learned counsel for the parties.

It appears that the petitioner/defendant who was subsequently added as party defendant in the suit, submitted an application before the trial court, copy of which has been placed on record by the petitioners as Annex.5 in this writ petition, and prayed that in view of the enactment of the Rajasthan Sports (Registration, Recognition and Regulation of Associations) Ordinance, 2004 and coming into force of the Rajasthan Sports (Registration, Recognition and Regulation of Associations) Act, 2005 (for short 'the Act of 2005'), every sports club is required to be registered as per the Rules and that another

association was duly constituted under the said Act, therefore, the plaintiff's suit has become infructuous.

The trial court vide impugned order dated 12.1.2007 rejected the petitioners' application.

According to learned counsel for the petitioners, the plaintiff's suit became infructuous and in view of the judgment of the Hon'ble Supreme Court delivered in the case of T. Arivandam vs. T.V. Satyapal and another reported in AIR 1977 SC 2421, frivolous litigation is required to be dismissed. The Hon'ble Supreme Court held that frivolous litigation should be nipped in the bud at the earliest stage.

I considered the submissions of learned counsel for the parties and perused the facts of the case in the light of the aforesaid decision of the Hon'ble Supreme Court.

In this case, the plaintiff filed a suit for declaration with a specific allegation of having some club and according to the defendants/ petitioners, in view of coming into force of the Act of 2005, every club or sports association can only be there when they are duly registered. The

petitioners' case is nowhere that the suit as it was filed was a frivolous litigation but the case is that due to subsequent events, the plaintiff's suit has become infructuous.

The matter cannot be sorted out without examination of the legal effect of the Act of 2005 on the right of the plaintiff and, therefore, the matter can be decided only on merits and the defendants may have defence and ultimately, the defendants may succeed but it cannot be said that the suit, as it was presented, was frivolous or has become frivolous because of subsequent enactment.

However, the petitioners will be free to raise objection on the basis of their this plea in the suit so that the matter may be decided by the Court according to law.

With the aforesaid observations, the present writ petition is hereby dismissed. No order as to costs.

(PRAKASH TATIA), J.

S.Phophaliya